



House of Representatives

General Assembly

File No. 341

February Session, 2002

Substitute House Bill No. 5726

House of Representatives, April 4, 2002

The Committee on Government Administration and Elections reported through REP. O'ROURKE of the 32nd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE CONNECTICUT RESOURCES RECOVERY AUTHORITY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-261 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2002*):

3 (a) There is hereby established and created a body politic and
4 corporate, constituting a public instrumentality and political
5 subdivision of the state of Connecticut established and created for the
6 performance of an essential public and governmental function, to be
7 known as the Connecticut Resources Recovery Authority. The
8 authority shall not be construed to be a department, institution or
9 agency of the state.

10 (b) The powers of the authority shall be vested in and exercised by a
11 board of directors, which shall consist of [thirteen] fifteen directors:
12 [Four] Five appointed by the Governor; [and three ex-officio members,

13 who shall have a vote including the Secretary of the Office of Policy
14 and Management, the Commissioner of Transportation, and the
15 Commissioner of Economic and Community Development;] two
16 appointed by the president pro tempore of the Senate, two by the
17 speaker of the House, one by the minority leader of the Senate and one
18 by the minority leader of the House of Representatives; and four chief
19 elected officials of municipalities in the area served by the authority.
20 The terms of the members of the board serving on June 30, 2002, shall
21 expire on July 1, 2002, and new members of the board shall be
22 appointed on or before July 1, 2002, to begin terms on July 1, 2002. Any
23 legislative appointee may be a member of the General Assembly. The
24 directors appointed by the Governor shall serve for terms of four years
25 each, from [January first next succeeding] July first in the year of their
26 appointment, provided, of the directors [first] appointed [, two] for
27 terms beginning on July 1, 2002, three shall serve for terms of two
28 years, and two for terms of four years, from [January first next
29 succeeding their appointment] July 1, 2002. The four chief elected
30 municipal officials shall be appointed by the regional council or
31 councils of government in the area served by the authority and shall
32 serve for terms of two years from July first in the year of their
33 appointment, provided no such chief elected official shall serve
34 consecutive terms on the board. Any vacancy occurring other than by
35 expiration of term shall be filled in the same manner as the original
36 appointment for the balance of the unexpired term.

37 (c) Of the [four] five members appointed by the Governor, two shall
38 be first selectmen, mayors or managers of Connecticut municipalities;
39 one from a municipality with a population of less than fifty thousand,
40 one from a municipality of over fifty thousand population; [two] and
41 three shall be public members without official governmental office or
42 status with extensive high-level experience in municipal or corporate
43 finance or business or industry, provided not more than [two] three of
44 such appointees shall be members of the same political party. [The
45 chairman of the board shall be appointed by the Governor, with the
46 advice and consent of both houses of the General Assembly. The
47 chairman shall serve at the pleasure of the Governor.] One of the two

48 members appointed by the president pro tempore of the Senate shall
49 represent a recognized community-based organization. One of the two
50 members appointed by the speaker of the House of Representatives
51 shall represent a recognized environmental public interest advocacy
52 organization. The board of directors shall elect one of its members to
53 serve as chairperson of said board.

54 (d) The [chairman] chairperson shall, with the approval of the
55 directors, appoint a president of the authority who shall be an
56 employee of the authority, paid a salary prescribed by the [chairman]
57 chairperson, subject to the approval of the directors. The president
58 shall supervise the administrative affairs and technical activities of the
59 authority in accordance with the directives of the board.

60 (e) Each director shall be entitled to reimbursement for his actual
61 and necessary expenses incurred during the performance of his official
62 duties.

63 (f) Directors may engage in private employment, or in a profession
64 or business, subject to any applicable laws, rules and regulations of the
65 state or federal government regarding official ethics or conflict of
66 interest.

67 (g) Six directors of the authority shall constitute a quorum for the
68 transaction of any business or the exercise of any power of the
69 authority, provided, at least two ex-officio directors and one director
70 from municipal government must be present in order for a quorum to
71 be in attendance. For the transaction of any business or the exercise of
72 any power of the authority, and except as otherwise provided in this
73 chapter, the authority shall have power to act by a majority of the
74 directors present at any meeting at which a quorum is in attendance. If
75 the legislative body of a municipality that is the site of a facility passes
76 a resolution requesting the Governor to appoint a resident of such
77 municipality to be an ad hoc member, the Governor shall make such
78 appointment upon the next vacancy for the ad hoc members
79 representing such facility. The Governor shall appoint with the advice
80 and consent of the General Assembly ad hoc members to represent

81 each facility operated by the authority provided at least one-half of
82 such members shall be chief elected officials of municipalities, or their
83 designees. Each such facility shall be represented by two such
84 members. The ad hoc members shall be electors from a municipality or
85 municipalities in the area to be served by the facility and shall vote
86 only on matters concerning such facility. The terms of the ad hoc
87 members shall be four years.

88 (h) The board may delegate to three or more directors such board
89 powers and duties as it may deem necessary and proper in conformity
90 with the provisions of this chapter and its bylaws. At least one of such
91 directors shall not be a state employee.

92 (i) Members of the board may designate a representative to perform
93 in their absence their respective duties under this chapter.

94 (j) The term "director", as used in this section, shall include such
95 persons so designated as provided herein and this designation shall be
96 deemed temporary only and shall not affect any applicable civil service
97 or retirement rights of any person so designated.

98 (k) The Governor may remove any director for inefficiency, neglect
99 of duty or misconduct in office after giving him a copy of the charges
100 against him and an opportunity to be heard, in person or by counsel, in
101 his defense, upon not less than ten days' notice. If any director shall be
102 so removed, the Governor shall file in the office of the Secretary of the
103 State a complete statement of charges made against such director and
104 his findings thereon, together with a complete record of the
105 proceedings.

106 (l) The authority shall continue as long as it shall have bonds or
107 other obligations outstanding and until its existence shall be
108 terminated by law. Upon the termination of the existence of the
109 authority, all its rights and properties shall pass to and be vested in the
110 state of Connecticut.

111 (m) The directors, members and officers of the authority and any

112 person executing the bonds or notes of the authority shall not be liable
113 personally on such bonds or notes or be subject to any personal
114 liability or accountability by reason of the issuance thereof, nor shall
115 any director, member or officer of the authority be personally liable for
116 damage or injury, not wanton or wilful, caused in the performance of
117 his duties and within the scope of his employment or appointment as
118 such director, member or officer.

119 (n) Notwithstanding the provisions of any other law to the contrary,
120 it shall not constitute a conflict of interest for a trustee, director,
121 partner or officer of any person, firm or corporation, or any individual
122 having a financial interest in a person, firm or corporation, to serve as a
123 director of the authority, provided such trustee, director, partner,
124 officer or individual shall abstain from deliberation, action or vote by
125 the authority in specific respect to such person, firm or corporation.

126 Sec. 2. (NEW) (*Effective from passage*) (a) If the Connecticut Resources
127 Recovery Authority enters into two or more contracts with the same
128 business, such business shall not take any action in the performance of
129 one of such contracts that provides a financial benefit to the business
130 pursuant to another such contract, to the detriment of the Connecticut
131 Resources Recovery Authority.

132 (b) If the Connecticut Resources Recovery Authority enters into two
133 or more contracts with two affiliated businesses, neither such business
134 shall take any action in the performance of its contract with the
135 authority that provides a financial benefit to the other affiliated
136 business pursuant to a contract between such affiliated business and
137 the authority, to the detriment of the authority.

138 (c) Any person who intentionally violates this section shall be
139 imprisoned for a term not to exceed one year or be fined an amount
140 not to exceed two thousand dollars, or both.

141 Sec. 3. (NEW) (*Effective from passage*) Notwithstanding any provision
142 of the general statutes, the Connecticut Resources Recovery Authority
143 shall award each contract for the business, design, operating,

144 management, marketing, planning, research and development, and
145 facilities management functions of the authority pursuant to
146 competitive bidding, provided the board of directors of the authority
147 may waive such competitive bidding requirement in the case of any
148 such contract if the board sets forth the reasons for such waiver, in
149 writing.

150 Sec. 4. (NEW) (*Effective from passage*) The Connecticut Resources
151 Recovery Authority shall make the following information available to
152 the public through the Internet, except for any such information which
153 is not required to be disclosed to the public pursuant to the Freedom of
154 Information Act, as defined in section 1-200 of the general statutes, as
155 amended:

156 (1) Draft minutes of each meeting of the board of directors of the
157 authority and each committee established by said board, not later than
158 seven days after each such meeting is held;

159 (2) Each report required under section 4a-60g of the general statutes,
160 as amended, setting forth small and minority-business set-aside
161 program goals and addressing the authority's progress in meeting said
162 goals, not later than seven days after each such report is required to be
163 submitted to the Commission on Human Rights and Opportunities
164 under said section 4a-60g;

165 (3) The annual plan of operations which the authority is required to
166 prepare pursuant to section 22a-264 of the general statutes, not later
167 than seven days after the plan is promulgated;

168 (4) Procedures for the dismissal of employees which are required to
169 be adopted pursuant to section 22a-268a of the general statutes, not
170 later than seven days after the adoption of such procedures; and the
171 terms of each severance agreement with an employee, not later than
172 seven days after the agreement is executed;

173 (5) Each periodic report to the authority prepared by a contractor
174 pursuant to a contract with the authority, not later than seven days

175 after the report is received by the authority; and each audit of a
176 contract, not later than seven days after the audit is received by the
177 authority; and

178 (6) Each contract executed by the authority, not later than seven
179 days after the contract is executed.

180 Sec. 5. Subdivision (9) of section 22a-265 of the general statutes is
181 repealed and the following is substituted in lieu thereof (*Effective from*
182 *passage*):

183 (9) Charge reasonable fees for the services it performs and waive,
184 suspend, reduce or otherwise modify such fees, provided (A) such
185 user fees shall apply uniformly within each municipality to all users
186 who are provided with waste management services with respect to a
187 given type or category of wastes, in accordance with criteria
188 established by the authority, [and provided further] (B) no change may
189 be made in user fees without at least sixty days prior notice to the
190 users affected thereby and an opportunity for a hearing, (C) no
191 increase in user fees approved by the authority between January 1,
192 2002, and the effective date of this section, which result from
193 transactions with the Enron Corporation or any subsidiary of said
194 corporation, shall take effect until at least twelve months after the
195 effective date of this section, (D) the authority shall not approve any
196 increase in user fees, which result from transactions with the Enron
197 Corporation or any subsidiary of said corporation, between the
198 effective date of this section and the date that the new members of the
199 board authorized by section 22a-261, as amended by this act, begin
200 their terms of office, and (E) the authority shall not approve any
201 increase in user fees, which result from transactions with the Enron
202 Corporation or any subsidiary of said corporation, for one year after
203 the date that the new members of the board authorized by section 22a-
204 261, as amended by this act, begin their term of office, provided the
205 provisions of subparagraph (E) of this subdivision shall not be
206 effective if such action would operate to create an event of default
207 under any bonds which have been issued by or for the benefit of the

208 authority.

This act shall take effect as follows:	
Section 1	<i>July 1, 2002</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>from passage</i>

GAE *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Current FY \$	FY 03 \$	FY 04 \$
Connecticut Resources Recovery Authority (quasi-public)	See Below	See Below	See Below

Municipal Impact:

Municipalities	Current FY \$	FY 03 \$	FY 04 \$
Mid Connecticut Member Towns, Contract Towns	See Below	See Below	See Below

Explanation

Increasing and changing the membership of the Connecticut Resources Recovery Authority's (CRRA) board of directors is not anticipated to have a fiscal impact.

Requiring CRRA to award every contract for business, design, operating, management, marketing, planning, research and development and facilities management to be based on a competitive bidding process, will increase costs due to producing RFP's, RFQ's, advertising, review and negotiation. The legislation also permits CRRA to waive the bidding requirement if its board provides reasons for doing so in writing. The overall impact is anticipated to be minimal and could be accomplished within resources.

The short-term impact of a ban on a user fee increase is a decrease in revenue to CRRA and a cost savings to member towns. After one year,

the impact to CRRA and municipalities would depend on other measures such as the amount of expenses CRRA could reduce from its budget, revenue from the sale of electricity, sale of certain assets, and any recoveries of funds resulting from litigation.

Banning a user fee increase may ultimately have a negative impact on the state's credit.

Posting various information and records on the internet is minimally anticipated to increase the administrative workload of CRRA. CRRA already has a website.

Violation of the conflict of interest prohibition created in the legislation could minimally increase revenue due to \$2,000 maximum penalty. The impact is anticipated to be minimal.

OLR Bill Analysis

sHB 5726

AN ACT CONCERNING THE CONNECTICUT RESOURCES RECOVERY AUTHORITY**SUMMARY:**

This bill:

1. increases, from 13 to 15, the membership of the Connecticut Resources Recovery Authority's (CRRA) board of directors, removes the current ex-officio board members, and adds (a) four elected municipal officials, (b) a representative of a community-based organization, and (c) a representative of an environmental public interest advocacy organization;
2. creates a conflict of interest prohibition for any business or business affiliates with more than one contract with CRRA and a penalty for violations;
3. requires CRRA to base its contract awards on a competitive bidding process, unless waived in writing;
4. requires CRRA to post specified records and information on the Internet; and
5. imposes moratoriums that extend to July 1, 2003 on increases in user fees that result from transactions with the Enron Corporation or its subsidiaries.

EFFECTIVE DATE: Upon passage, except the changes to the CRRA board of directors take effect July 1, 2002.

BOARD OF DIRECTORS

The bill increases the number on CRRA's board of directors from 13 to 15. It removes the three members who serve by virtue of their state agency positions, increases the governor's appointments from four to five, and adds four chief elected officials from towns served by the authority. It requires the Senate president pro tempore to make one of his two appointments a representative of a recognized community-based organization and the House speaker to make one of her two appointments a representative of a recognized environmental public interest advocacy group.

Table 1 shows the appointing authorities and the qualifications required for members of the CRRA board of directors under current law and under the bill's provisions.

Table 1: CRRA Board of Directors

Appointing Authority	Current Law	The Bill
Ex-officio	Office of Policy and Management secretary	--
Ex-officio	Transportation commissioner	--
Ex-officio	Economic and Community Development commissioner	--
Governor	First selectman, mayor, or town manager from town < 50,000 population	First selectman, mayor, or town manager from town < 50,000 population
Governor	First selectman, mayor, or town manager from town > 50,000 population	First selectman, mayor, or town manager from town > 50,000 population
Governor	Public member with experience in finance, business, or industry	Public member with experience in finance, business, or industry
Governor	Public member with experience in finance, business, or industry	Public member with experience in finance, business, or industry
Governor	--	Public member with experience in finance, business, or industry
Senate president pro tempore	No specified criteria	Representative of a community-based organization
Senate president pro tempore	No specified criteria	No specified criteria
House speaker	No specified criteria	Representative of an environmental public interest advocacy organization
House speaker	No specified criteria	No specified criteria
Senate minority leader	No specified criteria	No specified criteria
House minority leader	No specified criteria	No specified criteria
Regional council or councils of governments	--	Chief elected municipal official
Regional council or councils of governments	--	Chief elected municipal official
Regional council or	--	Chief elected municipal

councils of governments		official
Regional council or councils of governments	--	Chief elected municipal official

Under the bill, current members' terms expire on July 1, 2002 and the new members begin to serve on that date. (The bill permits them to be appointed before then.) The governor's appointees serve staggered four-year terms, as under current law; and no more than three, rather than two, of his appointees can be members of the same political party. The municipal officials serve two-year terms and are banned from serving consecutive terms. Under the bill, the members of the board, rather than the governor, select its chairman.

CONFLICT OF INTEREST

The bill bans activities that would be detrimental to the authority by (1) a business that has more than one contract with CRRA or (2) two affiliated businesses with CRRA contracts. It prohibits a company from taking action under its contract that benefits (1) the company's interests under another contract or (2) an affiliated company if the action disadvantages CRRA. The bill creates a penalty of up to one year in prison, a fine of up to \$2,000, or both for anyone who violates this provision.

BIDDING REQUIREMENT

The bill requires CRRA to award every contract for business, design, operating, management, marketing, planning, research and development, and facilities management pursuant to competitive bidding. It permits the authority to waive the bidding requirement if the board provides its reasons for doing so in writing.

INTERNET INFORMATION

The bill requires CRRA to post on the Internet specified information, other than records that may be kept confidential under the Freedom of Information Act. The information that must be available is:

1. the draft of meeting minutes;
2. reports to the Commission on Human Rights and Opportunities on Small and Minority Business Set-Aside Program goals and achievement progress;
3. the authority's annual plan of operations;

4. employee dismissal procedures and the terms of any severance agreement with an employee;
5. contractor's reports and contract audits; and
6. each contract the authority executes.

In each case, CRRA must make the information available on the Internet within seven days of its creation or receipt.

USER FEE INCREASES

CRRA has the power to charge user fees for the waste management services it performs. The bill requires the authority to offer to hold a public hearing prior to changing a user fee. It also bans any fee increase resulting from transactions with Enron Corporation or any of its subsidiaries that the board approved or will approve:

1. between January 1, 2002 and the bill's effective date, for at least 12 months after the effective date;
2. between the bill's effective date and July 1, 2002; and
3. between July 1, 2002 and July 1, 2003.

However, the bill permits a fee increase between July 1, 2002 and July 1, 2003 if a delay would result in the default of any bonds the authority has issued.

BACKGROUND

Related Bill

The Government Administration and Elections Committee gave a favorable report to sSB 383, "An Act Concerning Quasi-Public Agencies," includes Internet posting requirements similar to those included in this bill and applies them to all quasi-public agencies.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute
Yea 19 Nay 0